IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 2994 of 1988

For Approval and Signature:

HONOURABLE MR.JUSTICE K.A.PUJ

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1	Whether Reporters of Local Papers may be allowed to see the judgment ?
2	To be referred to the Reporter or not ?
3	Whether their Lordships wish to see the fair copy of the judgment ?
4	Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
5	Whether it is to be circulated to the civil judge ?

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ARVIND S JOSHI & 3 - Petitioners
Versus
STATE OF GUJARAT & 2 - Respondents

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Appearance :
MR BP JOSHI for Petitioners.
NOTICE SERVED for Respondent Nos. 1 - 2.
MR JR NANAVATI for Respondent No. 3.

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CORAM : HONOURABLE MR.JUSTICE K.A.PUJ

Date : 22/02/2006

ORAL JUDGMENT

1.The petitioners have filed this petition praying for direction to the respondents to treat all the petitioners mentioned at Annexure A as regular employees of the respondents from their initial date of appointment and to grant all the benefits available to regular employees. By way of interim relief, the petitioners have prayed for stay restraining the respondents from terminating, discharging or discontinuing the service of the petitioner Nos. 2 to 4 along with the names mentioned in Annexure A and seeking direction to the respondents to pay the time scale of pay equally available to the regular employees doing the similar work.

2.It is the case of the petitioners that the petitioners are the employees of the respondents working at Dantiwada Campus,

Gujarat Agriculture University, Krishinagar, Dantiwada. The petitioner Nos. 2 to 4 are the members of the petitioner No. 1 Union. All the members mentioned at Annexure A along with petitioner Nos. 2 to 4 are working as Watchman, Milker and other similar capacity. The petitioners were working since last 10 to 15 years continuously but under the guise of daily wagers, the petitioners were deprived of the time scale of pay and other benefits. The petitioners have time and again requested the respondents regarding permanency. However, no action was taken by the respondents to redress the grievances. The petitioners have asked for the relief on the basis of equal pay for equal work. The respondents are doing research work in the field as well as in the laboratory and, therefore, the nature of work which the respondents are carrying is not a time bound work and, therefore, work did not warrant that the person should be employed on the daily

wages for such a long time. It is, therefore, submitted that the petitioners should be absorbed on the regular establishment and they should be given all consequential benefits which are available to regular employees.

3.The petition was admitted on 23.06.1988. An affidavit-in-reply was filed on behalf of respondent No. 3. It is stated therein that the petitioners are casual workers on daily wages and their services are not continued but they are employed on the basis of the availability of the work. The petitioners had left the work if found not suitable by them and they had attended the work only when it was found by them suitable for them. The petitioners are, therefore, not entitled to all the benefits of permanent employees as alleged. It is further stated that the casual workers on daily wages is a different class from permanent employees on regular establishment of the University.

The work done by the employees of permanent establishment cannot be compared with the work done by the daily wagers and, therefore, there is no question of giving similar treatment to the petitioners as claimed by them.

4.This Court has passed an order on 02.02.2006. As per the said order, Mr. J.R. Nanavati, learned advocate appearing for the University had to take necessary instruction and to ascertain about the present status of the matter. Pursuant to the said order, Mr. J.R. Nanavati has placed on record a letter dated 14.02.2006 addressed by the University to him along with certain Notifications as well as office orders issued in favour of some of the petitioners. It is stated in the said letter that with regard to daily wagers and to make them permanent, SLP No. 1490/1999 was filed before the Hon'ble Supreme Court. Pursuant to the directions issued therein, different

schemes were framed and out of daily wagers who are working in the University, about 890 daily wagers have been made permanent and some of the daily wagers who are entitled to the benefit under Scheme No. 2 have also been given such benefits. So far as the present petitioners are concerned, seven petitioners have been given benefit under scheme No. 1 and they have been made permanent whereas three petitioners have been given the benefit of permanency under scheme No. 2. As per the scheme framed pursuant to the directions of the Hon'ble Supreme Court, as and when the criterias are fulfilled by the remaining petitioners, they will be given the benefit of permanency.

5.In the above view of the matter and in view of the fact that out of 52 petitioners, 10 petitioners have already been considered and given benefit of permanency or made permanent and also an assurance given in the said letter

that as and when the requisite criterias are fulfilled by the remaining petitioners, they will be given such benefits, nothing survives in the present petition. The petition is accordingly disposed of keeping in mind that the respondent No. 3 – University will adhere to the aforesaid assurance given in the letter and act as per the scheme framed pursuant to the direction of the Hon'ble Supreme Court.

6.Subject to the aforesaid observation, the petition is accordingly disposed of. Rule is made absolute to the above extent without any order as to costs.

[K.A. PUJ, J.]

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